

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
May 12, 2004

ITEM: 13

SUBJECT: **PUBLIC HEARING:** Southland Corporation, Store No. 20342, Oceanside: Administrative Assessment for Civil Liability containing a \$3,000 Mandatory Minimum Penalty against Southland Corporation for violation of Order No. 96-41, NPDES Permit No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges from Construction and Remediation Projects to Surface Waters within the San Diego Region, Except for San Diego Bay. If the discharger waives its right to a hearing, the matter will be postponed to a subsequent meeting to allow for a 30 day public review period. (Tentative Order No. R9-2004-0113, *Document No. 2*) (*Frank Melbourn*)

PURPOSE: To accept testimony from Southland Corporation, Regional Board staff, and the public regarding the allegations and recommendation of civil liability in Complaint No. R9-2004-0059 (*Document No. 3*) prior to deciding whether to adopt Tentative Order No. R9-2004-0113.

PUBLIC NOTICE: A public notice was published in the San Diego Union Tribune on April 9, 2004, and posted on the Regional Board web page on March 23, 2004. Public notice was further provided in the "Notification" section of the April 14, 2004 Regional Board Agenda.

DISCUSSION: Southland Corporation is the owner of 7-Eleven Store No. 20342 located at 487 Vandegrift Boulevard, Oceanside, California.

On February 18, 1997, the Regional Board enrolled Southland Corporation under Order No. 96-41 to discharge remediated groundwater to the San Luis Rey River via the Storm Water Conveyance System (WDID No. 9 000000795). The following table describes the effluent limit violations reported by Southland Corporation.

Date	Constituent	Type of Limitation	Effluent Limitation	Reported Concentration
07/09/01	Total Nitrogen	Instantaneous Maximum	2 mg/L	3.9 mg/L

Water Code section 13385 requires the assessment of a \$3,000 mandatory minimum penalty for this violation.

Southland Corporation through its consultant Secor International, Inc. requests the penalty be dismissed based on three arguments: the violations are statistical anomalies; 2 ½ years have elapsed since disclosure of the violations, and; the discharge of extracted groundwater from the sites have ceased (*Document No. 4*). An April 23, 2004 Regional Board letter evaluated each argument (*Document No. 5*) and determined they do not merit dismissal of the violations from mandatory penalties. The following is a summary of the reasons:

1. No documentation was provided to substantiate a claim of “statistical anomaly;”
2. The Regional Board identified the violations within two weeks of receiving the monitoring report, therefore Southland Corporation had ample time to investigate and contest the violations while the information was fresh; and
3. Although Southland Corporation immediately ceased its discharge to the receiving water in an effort to prevent further pollutant discharges, it still does not negate the existence of the violation.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

1. Site location map.
2. Tentative ACL Order No. R9-2004-0113
3. ACL Complaint No. R9-2004-0059
4. Secor International, Inc. letter, April 19, 2004
5. Regional Board letter, April 23, 2004

RECOMMENDATION: Adopt Tentative ACL Order No. R9-2004-0113.